

## Notice of Allowability

Application No.

10/057,813

Examiner

MINH-TAM DAVIS

Applicant(s)

REED ET AL.

Art Unit

1642

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to interview of 10/13/05 & 10/26/05.
2. ☒ The allowed claim(s) is/are 8-10,24,34-38, renumbered as 1-9.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 10/13/05.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with DEBORAH CADENA on October 13, 2005, and October 26, 2005.

The application has been amended as follows:

In the specification.

The continuation data on the first page, first paragraph of the specification has been updated as follows:

This application claims the benefit of U.S. Provisional Application No. 60/367,357, filed January 25, 2001, now abandoned, which was converted from U.S. Serial No. 09/770,219, and is incorporated herein by reference.

In the claims.

Claims 1-7, 11-23, 25-33 were cancelled.

Claim 8 was amended as follows:

Claim 8. (Currently amended) An isolated SBP1 polypeptide ~~[[,]] or functional fragment thereof~~ ~~[[,]]~~ consisting of ~~[[a]]~~ the polypeptide encoded by a nucleic acid molecule selected from the group consisting of:

(a) ~~[[a]]~~ the nucleic acid molecule encoding ~~[[a]]~~ the polypeptide consisting of amino acids 1-91 of SEO ID NO:14, wherein said polypeptide binds Survivin: and

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(b) ~~[[a]]~~ the nucleic acid molecule encoding ~~[[a]]~~ the polypeptide consisting of amino acids 85-125 of SEO ID NO:14, wherein said polypeptide enhances cyclin B 1/cdc2 kinase activity ~~[[;]]~~

~~wherein said SBP 1 polypeptide or said functional fragment thereof binds Survivin or enhances cyclin B 1/cdc2 kinase activity.~~

Claim 24 was amended as follows:

"SBP" on the second, fourth and fifth lines was deleted, and --- SBP1--- was inserted.

--- the amino acid sequence consisting of ---- was inserted on the fourth line, before amino acids 1-91.

--- the amino acid sequence consisting of ---- was inserted on the fifth line, before amino acids 85-125.

Claim 34 was amended as follows:

---- a heterologous protein fused to --- was inserted on the first line after comprising.

"a" on the second line, before Survivin was deleted, and --- the --- was inserted.

"referenced as" on the second and third lines was deleted, and --- consisting of ---- was inserted.

Claim 35 was amended as follows: "SBP" was deleted, and --- SBP1--- was inserted.

Claim 36 was amended as follows: "SBP" was deleted, and --- SBP1--- was inserted.

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Claim 37 was amended as follows: "referenced as" was deleted, and --- consisting of --- was inserted.

Claim 38 was amended as follows: "referenced as" was deleted, and --- consisting of --- was inserted.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MINH-TAM DAVIS whose telephone number is 571-272-0830. The examiner can normally be reached on 9:00 AM-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JEFFREY SIEW can be reached on 571-272-0787. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MINH TAM DAVIS  
October 13, 2005

SUSAN LINGAR, PH.D.  
PRIMARY EXAMINER

